IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

PRESENT:

**THE HON'BLE SMT JUSTICE T.MEENA KUMARI**

**&**

**THE HON'BLE SRI JUSTICE G.CHANDRAIAH**

**WRIT PETITION NO :16278 of 2007**

**DATED:23.8.2007.**

Between:

Union of India rep by the General Manager,
South Central Rly, Railnilayam, Secunderabad
& others

**.....PETITIONERs**

AND

V.Sita

**.....RESPONDENT**

**THE HON'BLE SMT JUSTICE T.MEENA KUMARI**
**&**
**THE HON'BLE SRI JUSTICE G.CHANDRAIAH**

**WRIT PETITION NO:16278 OF 2007**

ORDER: (Per the Honourable Smt.Justice T.Meenakumari)

The petitioners have filed the present writ petition seeking to call for the records pertaining to the order dated 21.4.2007 in O.A.No:880 of 2005 of the Tribunal and set aside the same.

The respondent is the applicant. Originally, on the O.A. filed by the applicant seeking to set aside the impugned letter No:P(SC) 268/HQ/03-04/1339, dated 14.9.2004 and consequently, direct the respondents to consider the case of the applicant for appointment under compassionate grounds while arranging the settlement dues, the tribunal having observed that there is no such document showing that the deceased employee was ever communicated with the charge memo about the date of enquiry and even there is no such document showing that the removal order was communicated to the deceased employee and therefore, the order which has not been communicated to the applicant, cannot be given effect and that the case of the applicant for compassionate appointment cannot be rejected on the ground that the deceased employee has a blemished record of service, allowed the O.A setting aside the order impugned

therein while directing to reconsider the case of the applicant and pass appropriate orders within a period of two months from the date of the order. Having aggrieved by the same, the present writ petition is preferred by the respondents.

Heard the learned counsel Standing counsel for the respondents and the learned counsel for the applicant and perused the entire material available on record as well as the order impugned.

The applicant is the wife of the deceased employee.

A perusal of the record clearly goes to show that the present O.A. was filed by the applicant nearly 8 years after the alleged removal order of her husband. In this regard, the grievance of the applicant is that no such removal order has been served on her husband and therefore, she has no knowledge about the removal, so that she could not respond to the same immediately by approaching the tribunal. Apart from that, it is pertinent to note that her deceased husband did not question the same even during his life time. In this back ground of the matter, We feel that the applicant is not entitled to any relief as sought for in the O.A. However, on the other hand, the respondents have failed to adduce any documentary evidence showing that the charge memo as well as the removal order had been served on the deceased husband of the applicant. There is no dispute as to the fact that the deceased husband of the applicant worked in the Department till 25.5.1995. There is also no dispute as to the death of the deceased husband on 10.5.2002 and as to the submission of the representations by the applicant from then

onwards.

At this stage, it is relevant to note that pursuant to the directions issued by this Court, the Chief Personnel Officer i.e., the 2nd respondent, who is present today before this Court with regard to the production of the relevant documents, has expressed that the original documents, including the acknowledgement showing the service of removal order against the deceased employee, are not available in the Department

The alleged charge in the memo is with regard to the unauthorized absence from 25.5.1995 onwards. Considering the gravity of the charge, We feel that the punishment in question imposed by the authorities is nothing but a disproportionate one.

In this back ground of the matter and in view of the fact that the authorities have failed to show that either the charge memo or the removal order had been served on the deceased husband and in view of the fact that the applicant started submitting her representations after the death of her husband and in view of the undisputed fact that the deceased employee worked till 25.5.1995 in the Department, We feel it appropriate to modify the punishment of removal from service to that of compulsory retirement for the services rendered by the deceased employee from 5.1.1981 till 25.5.1995. Consequently, the respondents are directed to sanction the family pension as well as the other benefits accrued to the deceased employee, in favour of the applicant being his wife. Accordingly, the order of the tribunal is modified.

Subject to the above direction, this Writ petition is disposed

of.

(JUSTICE T.MEENAKUMARI)

23rd August, 2007

(JUSTICE G.CHANDRAIAH)

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**THE HON'BLE SMT. JUSTICE T.MEENA KUMARI**
**&**
**THE HON'BLE SRI JUSTICE G.CHANDRAIAH**

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**WRIT PETITION NO:16278 of 2007**
**(Order delivered by the Honourable Smt.Justice T.Meena Kumari)**

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**23rd August, 2007.**